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Katherine J. Maples-Andrade
8415 South Pebble Creek Way #102
Highlands Ranch CO 80126

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of
Katherine J. Maples-Andrade et al.
Application No. 10/736,310
Filed: June 28, 2004
Title: SCENTED HAIR-STICKS

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed July 8, 2005, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 17, 2004, which set a shortened statutory period for reply of two (2) months. The notice indicated that an additional claim fee was due for 1 independent claim over 3. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 18, 2004.

With this petition, Petitioner submitted the petition fee, the proper statement of unintentional delay, and \$43.

Petitioner has failed to meet the first requirement above. This requirement has not been satisfied because Petitioner did not submit the required reply to the Office action in full. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed². It is noted that the notice of August 17, 2004 indicated that the additional claim fee was \$43. As of

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² See M.P.E.P. 711.03(c).

December 8, 2004 however, this fee was raised to \$100³ for a small entity. Since this petition was filed subsequent to that date, the fee due is \$100. In order for the application to be revived, petitioner must submit the remainder of the additional claim fee: \$57. The petition was not accompanied by an authorization to charge a Deposit Account.

Therefore, the petition must be **DISMISSED**.

On renewed petition, petitioner must submit the required reply, i.e. the remainder of the required surcharge.

Any response to this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." The reply should display "Please deliver to Paul Shanowski, c/o Office of Petitions" in a prominent manner. The reply to this letter may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Katherine J. Maples-Andrade
7662 S. Rosemary Cir.
Centennial, CO 80112

³ See <http://www.uspto.gov/web/offices/ac/qs/ope/fee2004dec08.htm>.

⁴ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁵ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

⁶ (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.